THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos.19778, 19818, 20093 and 20416 of 2006

09.10.2006

Between:

Ginkala Mangamma, W/o.Late Dasappa
And others

… Petitioners

AND

The Sub-Collector, Madanapalle, Chittoor District
And another

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos.19778, 19818, 20093 and 20416 of 2006

COMMON ORDER:

All the four writ petitions can be disposed of by this common order.

The petitioners or their predecessors were assigned agricultural lands situated at Kollabailu Village of Madanapalle Mandal in Chittoor District about fifty (50) years ago. However, by impugned order dated 03.3.2006, the Mandal Revenue Officer, Madanapalle Mandal (MRO), cancelled the assignment and resumed the land for providing house sites to weaker sections of Madanapalle Mandal. The MRO purportedly resumed the land as per condition No.17 of DKT patta. Aggrieved by the same, the petitioners filed appeals before the first respondent, which are pending. However, as there is a threat of forcible eviction of the petitioners, the present writ petitions are filed.

Leaned Counsel for the petitioners mainly raised two contentions. He contends that pursuant to the notices issued by the MRO, the petitioners submitted explanation but the same was not considered by the MRO. Secondly, it is urged that even if the land that is sought to be resumed, is assigned land, the respondents are bound to pay compensation in accordance with the Land Acquisition Act, 1894 (the Act, for brevity) and resumption of land without payment of any compensation is illegal. Reliance is placed on the Full Bench Decision of seven learned Judges of this Court in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyd v Mekala Pandu** [1] and also another decision of this Court in **P.Mallaiah v Government of A.P.** [2]. **Opposing the writ petition**, learned Assistant Government Pleader for Revenue (Assignment) submits

that the respondents have initiated necessary steps for payment of ex-gratia and that while resuming the land for public purpose, such ex-gratia was never denied to the petitioners.

In **P.Mallaiah** (supra), this Court relied on **Mekala Pandu** (supa) and disposed of similar contentions in the following manner.

> Whether the Government is bound to pay compensation to the assignees under the provisions of the Act where such assigned lands are resumed by the Government for public purpose? A Full Bench of five learned Judges of this Court in **State of Andhra Pradesh v Bondapalli Sanyasi**[3] while overruling the earlier decision of Full Bench of three learned Judges in **State of A.P. v P.Peda Chinnayya**[4], held that when the land is resumed in terms of the grant, no compensation be payable towards resumption of land and that compensation, however, is payable if the lands have not been resumed by following due process of law. The Full Bench of seven learned Judges in **Mekala Pandu** case (supra) on reconsideration of the issue did not accept the view of the Full Bench of five learned Judges in **Bondapalli Sanyasi** case (supra) and held that assignees of Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession by the State in accordance with the terms of the grant. It was also held that the conditions incorporated in patta/deed of assignment shall not operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land… …
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> … … It is brought to the notice of this Court that State has filed Special Leave Petition before the Supreme Court against **Mekala Pandu** case (surpa). This Supreme Court has passed orders staying any further payment of compensation which only means that even if assigned lands are resumed, the State need not pay any compensation as per the provisions of the Act in view of the stay orders. Though the ratio in **Mekala Pandu** case (supra) applies to this case, having regard to the orders of the stay, the petitioner can enforce his right to claim compensation only when the view of this Court in **Mekala Pandu** case (supra) is upheld. It is also brought to the notice of this Court that in accordance with the orders of Government in G.O.Ms.No.1307, the market value at the rate of Rs.7,000/- per acre was paid to the petitioner (total amount of Rs.15,698/-), which includes 15% additional ex-gratia as per the Government Order. But, as per the decision in **Mekala Pandu** case (supra), the petitioner is entitled to claim compensation as per the provisions of the Land Acquisition Act, that is to say, solatium, additional compensation and interest. A Mandamus shall issue in the above terms. However, Mandamus shall be enforceable subject to Judgment of the

Supreme Court in the appeal filed against **Mekala Pandu** case (supra).

Following the same, these writ petitions are disposed of, directing the respondents to pay compensation/ex-gratia as per the provisions of the Act including solatium, additional compensation and interest. However, this direction shall be enforceable subject to judgment of the Supreme Court in the appeals filed against the decision in **Mekala Pandu** (supra).

The writ petitions, with the above observations, are accordingly disposed of. No costs.

October 09, 2006. (**V.V.S.RAO, J**)
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[1] 2004(2) ALD 451 (LB)

[2] 2006(3) ALD 148 = 2006(2) ALT 742

[3] 2002 (2) ALD 1 (LB) = 2002 (1) ALT 543D (LB)

[4] 1996 (2) ALD 1215 (FB) = 1997 (1) ALT 498 (FB)